

IC 36-8-19

Chapter 19. Fire Protection Territories

IC 36-8-19-1

Application of chapter

Sec. 1. This chapter applies to any geographic area that is established as a fire protection territory.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.1.

IC 36-8-19-2

"Participating unit" defined

Sec. 2. As used in this chapter, "participating unit" refers to a unit that adopts an ordinance under section 6 of this chapter.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-3

"Provider unit" defined

Sec. 3. As used in this chapter, "provider unit" refers to the participating unit that is responsible for providing the fire protection services within the territory.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-4

"Territory" defined

Sec. 4. As used in this chapter, "territory" refers to a fire protection territory established under this chapter.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-5

Fire protection territory of contiguous units; establishment; purposes; boundaries

Sec. 5. (a) Subject to subsections (b) and (c), the legislative bodies of at least two (2) contiguous units may establish a fire protection territory for any of the following purposes:

(1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the territory.

(2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.

(3) Other purposes or functions related to fire protection and fire prevention.

(b) Not more than one (1) unit within the proposed territory may be designated as the provider unit for the territory.

(c) The boundaries of a territory need not coincide with those of other political subdivisions.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-6

Ordinance for establishment of territory

Sec. 6. (a) To establish a fire protection territory, the legislative bodies of each unit desiring to become a part of the proposed territory must adopt identical ordinances after January 1 but before April 1 authorizing the unit to become a party to an agreement for the establishment of a fire protection territory. Before adopting an ordinance under this section, a legislative body must hold a public hearing to receive public comment on the proposed ordinance. The legislative body must give notice of the hearing under IC 5-3-1.

(b) The notice required under this section shall include all of the following:

- (1) A list of the provider unit and all participating units in the proposed territory.
- (2) The date, time, and location of the hearing.
- (3) The location where the public can inspect the proposed ordinance.
- (4) A statement as to whether the proposed ordinance requires uniform tax rates or different tax rates within the territory.
- (5) The name and telephone number of a representative of the unit who may be contacted for further information.

(c) The ordinance adopted under this section shall include at least the following:

- (1) The boundaries of the proposed territory.
- (2) The identity of the provider unit and all other participating units desiring to be included within the territory.
- (3) An agreement to impose:
 - (A) a uniform tax rate upon all of the taxable property within the territory for fire protection services; or
 - (B) different tax rates for fire protection services for the units desiring to be included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.
- (4) The contents of the agreement to establish the territory.

(d) An ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

As added by P.L.37-1994, SEC.3. Amended by P.L.240-2001, SEC.3.

IC 36-8-19-7

Tax levy rate

Sec. 7. A tax levied under this chapter must be levied at:

- (1) a uniform rate upon all taxable property within the territory;
or
- (2) different rates for the units included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.

As added by P.L.37-1994, SEC.3. Amended by P.L.240-2001, SEC.4.

IC 36-8-19-8

Fire protection territory fund; establishment; purposes; budget; tax levies

Sec. 8. (a) Upon the adoption of identical ordinances under

section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

- (1) All receipts from the tax imposed under this section.
- (2) Any money transferred to the fund by the provider unit as authorized under subsection (d).
- (3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. After estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

- (1) the levy in the following year shall be increased by the amount required to be transferred; and
- (2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the equipment replacement fund established under section 8.5 of this chapter. The amount that may be transferred to the equipment replacement fund may not exceed five percent (5%) of the levy for that fund for that year. All participating units must agree to the amount to be transferred by adoption of identical ordinances specifying the amount.

(f) The tax under this section is not subject to the tax levy limitations imposed on civil taxing units under IC 6-1.1-18.5 for any unit that is a participating unit in a fire protection territory that was established before August 1, 2001.

(g) This subsection applies to a participating unit in a fire

protection territory established under IC 36-8-19 after July 31, 2001. For purposes of calculating a participating unit's maximum permissible ad valorem property tax levy for the three (3) calendar years in which the participating unit levies a tax to support the territory, the unit's maximum permissible ad valorem property tax levy for the preceding calendar year under IC 6-1.1-18.5-3(a) STEP ONE or IC 6-1.1-18.5-3(b) STEP ONE is increased each year by an amount equal to the difference between the:

- (1) amount the unit will have to levy for the ensuing calendar year in order to fund the unit's share of the fire protection territory budget for the operating costs as provided in the ordinance making the unit a participating unit in the fire protection territory; and
- (2) unit's levy for fire protection services for the calendar year that immediately precedes the ensuing calendar year in which the participating unit levies a tax to support the territory.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.2; P.L.82-2001, SEC.4; P.L.240-2001, SEC.5.

IC 36-8-19-8.5

Equipment replacement fund; property tax levy; maximum property tax rate

Sec. 8.5. (a) Participating units may agree to establish an equipment replacement fund under this section to be used to purchase fire protection equipment, including housing, that will be used to serve the entire territory. To establish the fund, the legislative bodies of all participating units must adopt identical ordinances after January 1 but before April 1 authorizing the provider unit to establish the fund. The ordinance must include at least the following:

- (1) The name of each participating unit and the provider unit.
- (2) An agreement to impose a uniform tax rate upon all of the taxable property within the territory for the equipment replacement fund.
- (3) The contents of the agreement to establish the fund.

An ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(b) If a fund is established, the participating units may agree to:

- (1) impose a property tax to provide for the accumulation of money in the fund to purchase fire protection equipment;
- (2) incur debt to purchase fire protection equipment and impose a property tax to retire the loan; or
- (3) transfer an amount from the fire protection territory fund to the fire equipment replacement fund not to exceed five percent (5%) of the levy for the fire protection territory fund for that year;

or any combination of these options. The property tax rate for the levy imposed under this section may not exceed three and thirty-three hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed value. Before debt may be incurred, the fiscal bodies of all participating units must adopt identical ordinances specifying the

amount and purpose of the debt. In addition, the department of local government finance must approve the incurrence of the debt using the same standards as applied to the incurrence of debt by civil taxing units.

(c) Money in the fund may be used by the provider unit only for those purposes set forth in the agreement among the participating units that permits the establishment of the fund.

As added by P.L.326-1995, SEC.3. Amended by P.L.36-2000, SEC.10; P.L.90-2002, SEC.500; P.L.256-2003, SEC.39.

IC 36-8-19-8.7

Purchase of firefighting equipment on installment conditional sale or mortgage contract

Sec. 8.7. After a sufficient appropriation for the purchase of firefighting apparatus and equipment, including housing, is made and is available, the participating units, with the approval of the fiscal body of each participating unit, may purchase the firefighting apparatus and equipment for the territory on an installment conditional sale or mortgage contract running for a period not exceeding:

- (1) six (6) years; or
- (2) fifteen (15) years for a territory that:
 - (A) has a total assessed value of sixty million dollars (\$60,000,000) or less, as determined by the department of local government finance; and
 - (B) is purchasing the firefighting equipment with funding from the:
 - (i) state or its instrumentalities; or
 - (ii) federal government or its instrumentalities.

The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year.

As added by P.L.83-1998, SEC.4. Amended by P.L.90-2002, SEC.501; P.L.178-2002, SEC.135.

IC 36-8-19-9

Avoidance of duplication of tax levies; preexisting indebtedness

Sec. 9. (a) The department of local government finance, when approving a rate and levy fixed by the provider unit, shall verify that a duplication of tax levies does not exist within participating units, so that taxpayers do not bear two (2) levies for the same service, except as provided by subsection (b) or (c).

(b) A unit that incurred indebtedness for fire protection services before becoming a participating unit under this chapter shall continue to repay that indebtedness by levies within the boundaries of the unit until the indebtedness is paid in full.

(c) A unit that agreed to the borrowing of money to purchase fire protection equipment while a participating unit under this chapter shall continue to repay the unit's share of that indebtedness by imposing a property tax within the boundaries of the unit until the indebtedness is paid in full. The department of local government

finance shall determine the amount of the indebtedness that represents the unit's fair share, taking into account the equipment purchased, the useful life of the equipment, the depreciated value of the equipment, and the number of years the unit benefited from the equipment.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.4; P.L.90-2002, SEC.502.

IC 36-8-19-10

Disbandment of existing fire departments

Sec. 10. This chapter does not require a municipality or township to disband its fire department unless its legislative body consents by ordinance to do so.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-11

Annexation of territory

Sec. 11. Any area that is part of a territory and that is annexed by a municipality that is not a part of the territory ceases to be a part of the territory when the municipality begins to provide fire protection services to the area.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-12

Adjustments to tax levy; entry year of participants

Sec. 12. In the same year that a tax levy is imposed under this chapter, each respective participating unit's tax levies attributable to providing fire protection services within the unit shall be reduced by an amount equal to the amount levied for fire protection services in the year immediately preceding the year in which each respective unit became a participating unit.

As added by P.L.37-1994, SEC.3.

IC 36-8-19-13

Withdrawal from territory; ordinance; effect of adoption

Sec. 13. (a) If a unit elects to withdraw from a fire protection territory established under this chapter, the unit must after January 1 but before April 1, adopt an ordinance providing for the withdrawal. An ordinance adopted under this section takes effect July 1 of the year that the ordinance is adopted.

(b) If an ordinance is adopted under subsection (a):

(1) the unit's maximum permissible ad valorem property tax levy with respect to fire protection services shall be initially increased by the amount of the particular unit's previous year levy under this chapter; and

(2) additional increases with respect to fire protection services levy amounts are subject to the tax levy limitations under IC 6-1.1-18.5, except for the part of the unit's levy that is necessary to retire the unit's share of any debt incurred while the unit was a participating unit.

As added by P.L.37-1994, SEC.3. Amended by P.L.326-1995, SEC.5.

IC 36-8-19-14

Payment of line of duty health care expenses for firefighters

Sec. 14. (a) A provider unit shall pay for the care of a full-time, paid firefighter who:

- (1) suffers an injury; or
- (2) contracts an illness;

during the performance of the firefighter's duty.

(b) The provider unit shall pay for the following expenses incurred by a firefighter described in subsection (a):

- (1) Medical and surgical care.
- (2) Medicines and laboratory, curative, and palliative agents and means.
- (3) X-ray, diagnostic, and therapeutic service, including during the recovery period.
- (4) Hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(c) Expenditures required by subsection (a) shall be paid from the fund used by the provider unit for payment of the costs attributable to providing fire protection services in the provider unit.

(d) A provider unit that has paid for the care of a firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the firefighter has a cause of action for an injury sustained because of, or an illness caused by, the third party. The provider unit's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the firefighter against the third party.

As added by P.L.150-2002, SEC.5.